

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill requires the Department of Financial Services to issue a new limited license to qualified entities to transact business in the area of travel protection insurance.

Safeguard individual liberty: The bill seeks to increase the availability of travel protection insurance, thereby increasing consumers' confidence in planning travel despite possible risks.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Limited License Insurance

Insurance agents may be classified according to the number of products they sell, the type of products they sell, and their place of residency. A "general lines agent" is authorized under state law to transact any or all of the following lines of insurance: property, casualty, surety, health, and marine insurance. "Limited lines agents" are individuals or entities licensed as agents but limited to selling one or more of the following forms of insurance (each requiring a separate license): motor vehicle physical damage and mechanical breakdown; industrial fire or burglary; personal accident; baggage and motor vehicle excess liability; credit life or disability; credit; credit property; crop hail and multiple-peril crop insurance; in-transit and storage personal property; or communications equipment property, communications equipment inland marine insurance, and communications equipment service warranty agreement sales. Section 626.321, F.S. Insurance agents are regulated by DFS.

Limited Personal Accident Insurance License

The limited personal accident insurance license under section 626.321(c), Florida Statutes (2006), is available to: a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency;¹ and to a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business entity which offers motor vehicles for rent or lease.² The personal accident license covers only policies of personal accident insurance covering the risks of travel, with the exception that a motor vehicle rental or leasing employee or entity may offer insurance that covers accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the rental motor vehicle.

PROPOSED CHANGES

Travel Protection Limited License

The bill proposes an additional area of limited licensing--- travel protection insurance, to be added to the limited personal accident insurance license category. The bill provides that a travel protection insurance license should be provided to qualified individuals or entities, and it identifies them. The bill also discusses what types of losses the insurance covers.

¹ Section 626.321(c)(1), F.S.

² Section 626.321(c)(2), F.S.

Qualified Individuals

An individual who is qualified to receive a personal accident insurance license (full-time salaried employee of a common carrier, full-time salaried employee or owner of a transportation ticket agency, or full-time salaried employee of a business which offers motor vehicles for rent or lease), is qualified to obtain the limited travel protection insurance license.

Qualified Entities

In addition to an entity which offers motor vehicles for rent or lease under subparagraph 2 of the personal accident insurance provision, the bill provides that certain entities, some of which are related to the timeshare industry, are also eligible for a limited travel protection insurance license. The list of eligible entities, contained in new subparagraph 3 includes: a managing entity operating a timeshare plan³ approved under chapter 721,⁴ and the developer of a timeshare plan that is the subject of an approved public offering statement under chapter 721. Also eligible to obtain a license is an exchange company operating an exchange program approved under chapter 721,⁵ and a seller of travel as defined in chapter 559.⁶ Last, a subsidiary or affiliate of any of the entities in subparagraph 3 is also eligible to obtain a license. The bill authorizes these entities to offer policies or certificates of insurance which cover losses such as: accidental death and dismemberment; trip cancellation, interruption, or delay; loss of or damage to personal effects or travel documents; baggage delay; emergency medical travel or evacuation; and medical, surgical, and hospital expenses of a traveler related to an illness or emergency that are incidental to planned travel or accommodations. These policies are effective for up to a 60-day travel period. However, the term during which the policy can be used may extend beyond 60 days.

Licensing Requirements

An entity that applies for a limited license under chapter 626 must submit an application and fingerprints of the officers and directors;⁷ obtain a license for each office, branch office, or place of business;⁸ pay applicable license fees, be appointed by the appropriate appointing entity, and pay the applicable appointment fee.⁹ Communications equipment licenses available under 626.321(i)(1)(c) are exempt from the fingerprint requirement.

³ Under a "timeshare plan," in exchange for consideration, "a purchaser receives ownership rights in or a right to use accommodations, and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years." Section 721.05(39), F.S. Both personal property and real property fall under the definition of a timeshare plan. Section 721.05(39)(a)-(b), F.S.

⁴ Chapter 721, F.S., provides for regulation of the offering, sale, management, and operation of real and personal property timeshare plans.

⁵ "Exchange company" means any person owning or operating, or owning and operating, an exchange program. Section 721.05(15), F.S. "Exchange program" means any method, arrangement, or procedure for the voluntary exchange of the right to use and occupy accommodations and facilities among purchasers. The term does not include the assignment of the right to use and occupy accommodations and facilities to purchasers pursuant to a particular multisite timeshare plan's reservation system. Any method, arrangement, or procedure that otherwise meets this definition, wherein the purchaser's total contractual financial obligation exceeds \$3,000 per any individual, recurring timeshare period, shall be regulated as a multisite timeshare plan in accordance with part II. Section 721.05(16), F.S.

⁶ Chapter 559, which addresses regulation of trade, commerce, and investments, defines "seller of travel" as any resident or nonresident person, firm, corporation, or business entity who offers for sale, directly or indirectly, at wholesale or retail, prearranged travel, tourist-related services, or tour-guide services for individuals or groups, including, but not limited to, vacation or tour packages, or vacation certificates in exchange for a fee, commission, or other valuable consideration. The term includes any business entity offering membership in a travel club or travel services for an advance fee or payment, even if no travel contracts or certificates or vacation or tour packages are sold by the business entity. Section 559.927(10).

⁷ Section 626.321(2)(a).

⁸ Section 626.321(2)(b).

⁹ Section 626.321(2)(c).

The bill contains a fingerprint exemption; the fingerprint submission requirement does not apply for the purpose of obtaining a limited travel protection insurance license.

The bill contains an educational requirement. Licensees' employees must receive initial training from a general lines agent or an insurer that is authorized under chapter 624 to transact insurance in Florida.

C. SECTION DIRECTORY:

Section 1: Amends s. 626.321, F.S.; provides for licensure of qualified individuals and entities to transact travel protection insurance; specifies qualified individuals/entities; describes types of travel protection insurance; specifies duration of insurance coverage; exempts certain entities from fingerprint requirements; requires initial educational component for certain licensees' employees.

Section 2: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Recurring

If all of the estimated 300 sellers of travel currently registered with the Department of Agriculture and Consumer Services become licensed with DFS, then DFS estimates a gain in licensing fees.

Insurance Regulatory Trust Fund (300 x \$55)	\$16,500
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If all the entities currently approved as sellers of travel with the Department of Agriculture and Consumer Services become appointed with DFS, then DFS estimates a gain of revenue in appointment fees.

Insurance Regulatory Trust Fund (8,721 x \$42)	\$366,282
County Revenue ¹⁰ (8,721 x \$6)	\$52,326
Insurance Fraud ¹¹ (8,721 x \$12)	<u>\$104,652</u>
Total	\$523,260

If all of the estimated 50 timeshare entities being registered with the Department of Business and Professional Regulation become licensed with DFS, then DFS estimates revenue an annual gain in licensing fees to the Trust Fund.

Insurance Regulatory Trust Fund (50 x \$55)	\$2,750
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If all of the timeshare entities currently registered with the Department of Business and Professional Regulation potentially becoming licensed with DFS, then DFS estimates a gain of revenue in appointment fees.

Insurance Regulatory Trust Fund (632 x \$42)	\$26,544
County Revenue (632 x \$6)	\$3,792

¹⁰ The state collects the county tax on behalf of the county in which the entity resides. Sec. 624.506, F.S., provides that DFS shall deposit funds into the Agents County Tax Trust Fund, shall keep a separate account for all moneys collected for each county and, after deducting the service charges provided for in s. 215.20, shall remit the balance to the counties

¹¹ Sec. 624.521, F.S., provides that this portion of the fees be deposited into the Insurance Regulatory Trust Fund shall be used to fund the Division of Insurance Fraud.

Insurance Fraud (632 x \$12)	<u>\$7,584</u>
Total	\$37,920

Nonrecurring

If all currently approved as sellers of travel with the Department of Agriculture and Consumer Services become licensed with DFS in the first fiscal year of the bill becoming law, then DFS estimates a gain of revenue in licensing fees.

Insurance Regulatory Trust Fund (8,721 x \$55)	\$479,655
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If the timeshare entities currently registered with the Department of Business and Professional Regulation become licensed with DFS in the first fiscal year of bill becoming law, then DFS estimates a gain of revenue in licensing fees.

Insurance Regulatory Trust Fund (632 x \$55)	\$34,760
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2. Expenditures:

DFS estimates the following nonrecurring OPS/contract services expenses will be incurred:

- Enhancements to the online application system \$5,000
- Enhancements to the licensing database \$15,000

Total	\$20,000
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

DFS estimates a revenue gain for renewal of appointments every two years by Florida counties.

County revenue (9,353 x \$6)	\$56,118
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2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities applying for a license under the proposed bill would be required to pay the \$50 application fee and \$5 license card fee for each application submitted. Insurers would incur an appointment fee of \$60 for each licensee that is appointed.

D. FISCAL COMMENTS:

The estimates provided by DFS assume that all eligible entities obtain a travel protection insurance limited license and represent the potential maximum revenue generated from the new licenses. Additionally DFS estimates that there may be some offsetting revenue loss due to applicants applying for the proposed license solely, instead of applying for the existing Personal Accident license and the Baggage and Motor Vehicle Excess Liability license simultaneously. The actual revenues will depend on the actual number of entities choosing to obtain the license.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It appears that combining the limited travel protection license with the personal accident license creates some ambiguity. It appears that the individuals and entities that are eligible to obtain a personal accident license under sections 626.321(1) and (2) would now be eligible to obtain the limited travel protection license, but they would not be subject to the language that outlines the scope of the coverage or the educational requirement contained in proposed subparagraph 626.321(3).

D. STATEMENT OF THE SPONSOR:

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES